

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SEAN R.,¹

Plaintiff,

v.

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

Case No. 3:18-cv-00460-AC

ORDER

Merrill Schneider, Schneider Kerr & Robichaux, P.O. Box 14490, Portland, OR 97293. Attorney for Plaintiff.

Billy J. Williams, United States Attorney, and Renata Gowie, Assistant United States Attorney, United States Attorney's Office, 1000 SW Third Avenue, Suite 600, Portland, Oregon 97204; Michael S. Howard, Special Assistant United States Attorney, Office of the General Counsel, Social Security Administration, 701 Fifth Avenue, Suite 2900 M/S 221A, Seattle, WA 98104. Attorneys for Defendant.

IMMERGUT, District Judge

On November 18, 2019, Magistrate Judge John Acosta issued his Findings and Recommendation (F&R), recommending that the Commissioner's decision be reversed. ECF 18.

¹ In the interest of privacy, this order uses only the first name and the initial of the last name of the non-governmental party in this case.

Judge Acosta further recommended this case be remanded for the immediate calculation and award of benefits. *Id.* No party filed objections.

DISCUSSION

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, sua sponte,” whether de novo or under another standard. *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee to the Federal Rules recommends reviewing for clear error when no timely objection is filed. Fed. R. Civ. P. 72(b) advisory committee’s note from 1983.

As no party filed objections, this Court has reviewed the F&R for clear error. Finding none, this Court adopts it in full. The Commissioner’s decision that Plaintiff was not disabled is REVERSED, and this proceeding is REMANDED for the immediate calculation and payment of benefits.

IT IS SO ORDERED.

DATED this 18th day of February, 2020.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge